

REMARKS

Status of the Claims

Upon entry of the amendment above, claims 1, 3-16, and 18-24 will be pending, claims 1, 18, 19, 21, and 22 being independent.

Summary of the Office Action

Claims 1, 3, 4, 7-15, 17, 19, and 20 are rejected under 35 USC §102(e) as being anticipated by REUSS et al. (U.S. Patent No. 6,250,651, hereinafter "REUSS"), as set forth in Section 3, beginning on page 2 of the Office action.

Claims 5 and 6 are rejected under 35 USC §103(a) as being unpatentable over REUSS, as set forth in Section 5, beginning on page 4 of the Office action.

Claims 16 and 18 are rejected under 35 USC §103(a) as being unpatentable over REUSS in view of BUMGARNER, as set forth in Section 6 on page 5 of the Office action.

Claim 2 is identified as containing allowable subject matter, but is objected to as depending from a rejected claim.

Response to the Office Action

A. Withdrawal of Rejections Under 35 USC §102(e) and §103(a) Based Upon REUSS

In the amendment above, Applicant has incorporated the subject matter of allowable claim 2 (*viz.*, "said at least one linkage of said at least one linkage being movable to a boot removal/insertion position extending along a plane positioned at substantially 0° relative to said plane of the upper surface of said base") into independent claim 1 and, therefore, claim 2 has been canceled.

Accordingly, independent claim 1 and the claims depending therefrom are believed to have been placed in independent form.

In addition, for the purpose of advancing prosecution of the instant application, Applicant has introduced that subject matter into independent claim 19, as well.

Therefore, reconsideration and withdrawal of the rejections based upon REUSS considered alone, under 35 USC §102(e) and §103(a), is requested. In this regard, with the indication of allowability of claim 2, Applicant notes that the manner of describing the position of the linkage in the boot removal/insertion position presented in claim 2 was preferred by the Examiner over that which had been presented in claim 1, prior to amendment. Nevertheless, Applicant acknowledges that both manners of description are supported by the original disclosure, including the drawings and are part of that which patentably defines the invention over the prior art of record, including REUSS.

In addition to the reasons for allowance mentioned above, Applicant has amended independent claim 19 to replace the subparagraph "said first band of said linkage extending longitudinally in a direction along a plane from said first fastener to said tightening device and said second band of said linkage extending longitudinally in a direction along a plane from said second fastener to said tightening device" with the subparagraph "a common median plane of the linkage extends from said fastening end of said first band to said fastening end of said second band". Both limitations, that which is here canceled and that which is newly added, are intended to draw attention to the fact that the first and second bands of the linkage of Applicant's claim 19 are *straight*, at least in a two-dimensional sense shown in Figs. 2-4 (although they are curved when attached to the lateral flanges of the baseplate), in contrast to the bands of the REUSS binding, which include doglegs at the fastening ends (see Figs. 9 and 10 of REUSS).

B. Withdrawal of Rejection Under 35 USC §103(a) Based Upon the Combination of REUSS and BUMGARNER

Applicant respectfully requests that the rejection of independent claim 18 as being unpatentable over the combination of REUSS and BUMGARNER be reconsidered and withdrawn.

Claim 18 includes a feature of the invention regarding a particular configuration of abutment, such as that shown in Applicant's Figs. 2 and 7 (free end of a first band of a linkage having a tapered shape with lateral teeth).

Applicant submits that the asserted motivation for the rejection, *i.e.*, the modification of the REUSS binding by means of the teachings of BUMGARNER, "to prevent the free end of the first band [of REUSS] from passing through the tightening device," would not have been obvious to one skilled in the art. That is, REUSS already includes a fastener 40 that prevents the free end of REUSS's first band from passing through the tightening device. *Therefore, an additional mechanism would not be sought; it would not be needed.*

Still further, Applicant has amended claim 18 above, *i.e.*, "said abutment comprising a pair of lateral teeth, extending rearwardly from said longitudinally tapered width of said free end of said first band."

In the rejection, the Examiner directs attention to Figs. 4-6 of BUMGARNER. Apparently, therefore, the tapering to which the rejection is directed is a tapering of the *thickness* of an end. In column 4, lines 4-5, BUMGARNER refers to "the tapered end 221 of tongue 22"

By contrast, Applicant's claim 18 is directed to a tapered *width* of the free end of the first band of the subject linkage at issue. Further, the tapered end 221 of BUMGARNER appears to be a tapered end of what would be considered a *fastening end* of a band of a linkage in the context of Applicant's invention.

At least for the foregoing reasons, reconsideration and withdrawal of the rejection of claim 18 is requested.

C. New Claims

In the amendment above, Applicant has added new claims 21-24, with claims 21 and 22 being independent.

New independent claim 21 is quite similar to claim 1, as now amended to include the subject matter of former claim 2 (*viz.*, "said at least one linkage of said at least one linkage being movable to a boot removal/insertion position extending along a plane positioned at substantially 0° relative to said plane of the upper surface of said base"), although the limitation regarding the "abutment" from claim 1 has been omitted.

At least in view of the inclusion of the subject matter of claim 2, favorable consideration of new claim 21 is kindly requested.

New independent claim 22 includes two limitations to which Applicant directs attention. First, at the end of the claim, as an alternative to the subject matter of claim 2, Applicant specifies that "one of said front and rear linkages being unrestrained by said base and relative to said base in said boot removal/insertion position."

By contrast, in column 6, lines 47-50, REUSS states that the abutment 90 and straps 22, 26 are configured to hold the toe strap approximately 10° above the horizontal plane of the base.

Further, even if the self-serving and broadening passage from REUSS's specification at column 6, lines 50-54 (*i.e.*, "the straps and/or the baseplate may be configured in any manner to hold the toe strap 20 at any desired position relative to the baseplate when rotated to the forward position"), cited in the Office action, is to be regarded as having relevance to Applicant's invention, such passage, *regardless of its breadth*, describes the toe strap *to be held* at the forward position.

By contrast, in claim 22 Applicant specifies that the linkage is "unrestrained," *i.e.*, the linkage is *not held*, at the boot removal/insertion position.

The second limitation of claim 22 to which Applicant directs attention relates to the specification of an abutment. Specifically, Applicant calls for "a tightening device attached to said second band, said tightening device facilitating an adjustment of a length of said linkage between said first and second lateral flanges by engagement with an abutment of said first band superimposed with a portion of said second band."

Dependent claim 23 describes such abutment of the first band to comprise one of a series of teeth (such as teeth 28 or 65 shown Applicant's drawings), whereas dependent claim 24 describes such abutment to comprise "an enlargement at the free end of said first band, said abutment having a width larger than said width of the passage to prevent withdrawal of said first band from said passage" (such as abutment 40, 60, or 70 shown in Applicant's drawings).

D. Amendment

In addition to amendments made to the claims, mentioned above, Applicant has made amendments to paragraphs 0014, 0033, and 0046, and have added new paragraph 0030.1 to the specification. No prohibited new matter has been added.

In paragraph 0014 amendments of a cosmetic nature have been made. The amendments to paragraphs 0033 and 0046, and the new paragraph 0030.1, were made to provide closer conformance with claim terminology. Bases for the amendments can be found in the original disclosure of the instant application and parent application.

E. Interview with the Examiner

Applicant's undersigned representative extends his thanks to the Examiner for his time and attention during an interview earlier today, March 31, 2005.

At the interview, the amendments and arguments presented above were discussed.

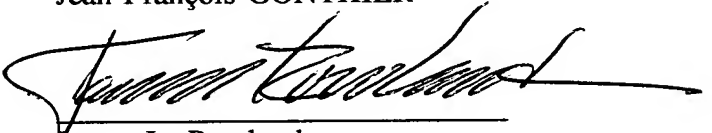
SUMMARY AND CONCLUSION

The grounds of rejection advanced in the Office action have been addressed and are believed to be overcome. Reconsideration and allowance are respectfully requested in view of the amendment and remarks above.

A check is enclosed for payment of a fee for an extension of time and a fee for additional claims. No additional fee is believed to be due at this time. However, the Commissioner is authorized to charge any fee required for acceptance of this reply as timely and complete to Deposit Account No. 19-0089.

Any comments or questions concerning this application can be directed to the undersigned at the telephone or fax number given below.

Respectfully submitted,
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